



**GOVERNMENT OF PUERTO RICO**  
**ENVIRONMENTAL QUALITY BOARD**

January 25, 2018

**Mr. Pete Lopez**

Regional Administrator  
US Environmental Protection Agency (USEPA) – Region 2  
290 Broadway, New York, NY 10007

**PROTECCIÓN TÉCNICA ECOLÓGICA (PROTECO) – REQUEST FOR TIME CRITICAL  
REMOVAL ACTION AND INCLUSION IN THE NATIONAL PRIORITIES LIST (NPL).  
PEÑUELAS, PUERTO RICO. PRD091018622**

Dear Mr. Lopez:

On November 30, 2017, our Agency was informed of and received a copy of, the Referral Memorandum of the *Protección Técnica Ecológica* (PROTECO) Site, from the RCRA Corrective Action Program to the CERCLA Program for its evaluation for a CERCLA response action (Attachment 1). This referral requested that Preliminary Site Assessments of the closed RCRA units at its former hazardous waste management facility to evaluate potential releases of hazardous waste constituents from these units into the environment. This site has been under an Amended Consent Decree (ACD) under RCRA, since November 1997, which required PROTECO to file a Post-Closure Permit (PCP) application with your Agency. Permit required the maintenance of the RCRA closed units on site, and establishment of a groundwater monitoring program. Although, PROTECO filed the PCP, between 1999 and 2007, the site ceased the implementation of the post-closure care required as part of the PCP.

As the PROTECO Referral Memorandum shows, the site did not implement the post-closure maintenance and the groundwater monitoring program required by the PCP. In addition, there are other concerns associated to the site, such as the establishment of a cattle grassing operation and the possible damaging effects of the Hurricane Maria on the closed RCRA units, which could have compromised the integrity of the cap covering each units and may have facilitated the entrance of high amounts of rainwater into them. As the memorandum suggest, this may represent a potential risk to public health and the environment.

Based on our evaluation of the memorandum information on the site's non-compliance history and the current conditions of the site, our Agency concur with your Agency's assessment that the abandoned former hazardous waste facility poses a risk to public health and the environment, which requires an immediate action to mitigate the situation. For this reason, we request the designation of PROTECO as a Superfund Site and be included in the National Priorities List of the Superfund Program for further response action. If you have any question, feel free to contact me at 787-999-2200, Extension 2103, or our Legal Affairs Office Chief, Samuel Acosta Camacho, Esq. at 787-767-8181, Extension 6121.

Cordially,

**Tania Vázquez Rivera**  
PREQB Chairman  
Attachment  
FMS/ero



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION  
CITY VIEW PLAZA II, SUITE 7000  
GUAYNABO, PUERTO RICO 00968-8069

MEMORANDUM

NOV 27 2017

**SUBJECT:** Referral from RCRA to CERCLA  
Protección Técnica Ecológica (PROTECO), Peñuelas, PR  
EPA ID No. PRD-091018622

**FROM:** Carmen Guerrero, Director  
Caribbean Environmental Protection Division

**TO:** Walter Mugdan, Director  
Emergency and Remedial Response Division

This is to refer the Protección Técnica Ecológica (PROTECO) facility from RCRA to CERCLA for evaluation for CERCLA response action to conduct a Preliminary Site Assessment of closed RCRA units at this former hazardous waste management facility and evaluate potential releases of hazardous waste constituents from these units into environmental media. Since November 1997, PROTECO has been subject to an Amended Consent Decree (ACD) under RCRA, which required PROTECO to file a Post-Closure Permit (PCP) application with EPA, implement post-closure maintenance of the closed units, and establish a groundwater monitoring system.

Initially, PROTECO did file a PCP application and implemented post-closure maintenance at the site. As part of the post-closure care and maintenance requirements, PROTECO kept the closed units cleared and well mowed, cleared the stormwater management channels, kept the site's perimeter fencing and warning signs in good shape, and removed leachate from the Corrective Action Management Unit (CAMU) as needed. However, after the initial post-closure care period (1999-2007), the site stopped implementing post-closure care requirements altogether.

The implementation of a groundwater monitoring system for the site (that would be incorporated into the site's RCRA Post-Closure Permit) became a contentious issue and PROTECO strongly opposed such requirement. During meetings between EPA and PROTECO to discuss the terms of the PCP requirements for the Peñuelas site, an agreement was reached that the site would undertake a dye tracer study aimed at characterizing the site's hydro-geology. PROTECO submitted a work plan to EPA for the dye tracer study, and after receiving EPA's comments to such work plan, PROTECO refused to move forward with the implementation of the dye tracer study.

Faced with the facility's reluctance to implement post-closure groundwater monitoring, review of the PCP application stalled and the PCP for the site was never issued. Implementation of post-closure groundwater monitoring at the site was the main component of the PCP.

So far, EPA's RCRA Program efforts to compel PROTECO to meet the Amended Consent Decree requirements have been ineffective. To this date, after 20 years, the site still does not have a groundwater monitoring system as required for hazardous waste facilities closed with waste in place.

Although the site was initially maintained as required, those efforts were abandoned at some point between 2007 and 2009. Since then, the site has been essentially abandoned and has been totally overgrown by secondary vegetation.

The site's non-compliance status has been further aggravated by the establishment of a cattle growing operation on its premises, which EPA became aware of around 2009. Such operation, while clearly incompatible with a regulated closed hazardous waste facility under RCRA, appears to be allowed by PROTECO's owner/operator.

As the site is abandoned and overgrown with vegetation, and no groundwater monitoring data has been available for over 20 years, EPA is deeply concerned with the potential releases of hazardous wastes and/or hazardous constituents to the environment, particularly, the migration of hazardous wastes/constituents downward into the underlying groundwater.

More recently, on September 20, the site was impacted by Hurricane Maria. Hurricane-force winds and torrential rains affected the site by downing trees and soaking the closed units with approximately 22-24 inches of rain within a 48-hour period. It can be reasonably assumed that the integrity of the closed units' RCRA cap was compromised, and that a considerable amount of rainwater entered the units, including the CAMU, during such extreme weather event.

In view of the site's non-compliance history, and faced with the circumstances discussed above, referral from the EPA's RCRA program to CERCLA seems like the most viable option to proactively address the potential environmental and public health risks posed by this abandoned former hazardous waste disposal facility.

Please contact Angel Salgado, of my staff, at (787) 977-5854 if you have any questions or require further information.